

SUMMARY ANALYSIS OF AMENDED BILL

Author: Ridley-Thomas Analyst: Jennifer Bettencourt Bill Number: SB 870
 Related Bills: See Prior Analysis Telephone: 845-5163 Amended Date: August 31, 2007
 Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: State Employment/Adverse Actions Against Managerial, Supervisory, Or Confidential Employees Must Commence Within One Year

_____ DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as introduced/amended _____.

_____ AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.

X AMENDMENTS DID NOT RESOLVE THE DEPARTMENTS CONCERNS stated in the previous analysis of bill as introduced February 23, 2007.

X FURTHER AMENDMENTS NECESSARY.

_____ DEPARTMENT POSITION CHANGED TO _____.

X REMAINDER OF PREVIOUS ANALYSIS OF BILL AS INTRODUCED February 23, 2007, STILL APPLIES.

_____ OTHER – See comments below.

SUMMARY

This bill would shorten the time to serve an adverse action against managerial, supervisory, or confidential employees from three years to one year.

SUMMARY OF AMENDMENTS

The August 31, 2007, amendments would exclude certain civil service employees from the requirements of this bill by replacing "excluded employee" with "managerial", "supervisory", and "confidential employees". As a result of the amendments, the "This Bill" discussion as provided in the department's analysis of the bill as introduced February 23, 2007, has been revised. The remainder of that analysis still applies. The "Implementation Considerations" and "Fiscal Impact" discussions are included below for convenience.

Board Position:

_____ S	_____ NA	_____ NP
_____ SA	_____ O	_____ NAR
_____ N	_____ OUA	<u>X</u> PENDING

Legislative Director

Date

Brian Putler

9/06/07

ANALYSIS

THIS BILL

This bill would shorten the statute of limitations from three years to one year in which to serve an adverse action on any managerial, supervisory, or confidential employee as defined by Government Code Section 3513. For this group of employees, notice of an adverse would need to be served within one year from the occurrence of the cause for discipline. In the case of an adverse action based on fraud, embezzlement, or the falsification of records, this bill would require the notice of adverse action to be served within one year from the date of discovery of the misconduct.

IMPLEMENTATION CONSIDERATIONS

A one year statute of limitations to serve an adverse action for unauthorized access would weaken the department's ability to use disciplinary action as a deterrent for violating the department's unauthorized access policies. The shortened statute would limit the cases the department develops to only include acts that occurred during the most recent year; however, some occurrences of unauthorized accesses take longer to discover than one year from the employee's first inappropriate access. Allowing unauthorized accesses to escape discipline due to a shortened statute of limitations would also weaken privacy protection for taxpayers' confidential information.

FISCAL IMPACT

The department would need to enhance its audit systems used to identify instances of inappropriate access of confidential taxpayer information and additional resources to analyze data collected to decrease the time it presently takes to uncover patterns of unauthorized access. These costs are estimated at \$467,445:

- \$220,000 to enhance the current audit system
- \$247,445 for 2.5 personnel years

Annual costs for system maintenance and 2 personnel years are estimated at \$245,000.

It is recommended that the bill be amended to include appropriation language that would provide funding to implement this bill. Lack of an appropriation will require the department to secure the funding through the normal budgetary process, which will delay implementation of this bill.

LEGISLATIVE STAFF CONTACT

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